

APPEAL NO. 041715
FILED SEPTEMBER 2, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 9, 2004. The hearing officer determined that the compensable injury of _____, does not extend to and include the right leg. The appellant (claimant) appeals this determination on sufficiency of the evidence grounds. No response was filed.

DECISION

The decision and order of the hearing officer have become final pursuant to Section 410.169.

A written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision, excluding Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code. Section 410.202(a) and (d). Under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)), as amended effective August 29, 1999, unless the great weight of evidence indicates otherwise, the claimant is deemed to have received the hearing officer's decision five days after it was mailed. The Appeals Panel has held that, where Texas Workers' Compensation Commission (Commission) records show mailing on a particular day to the claimant's correct address, a mere statement that the decision was not received until a later date is not sufficient to extend the date of receipt past the deemed date of receipt. Texas Workers' Compensation Commission Appeal No. 990170, decided March 18, 1999. Commission records indicate that the hearing officer's decision was mailed to the claimant's correct address on June 15, 2004. The claimant was deemed to have received the decision on June 20, 2004. The last date for the claimant to timely file an appeal was July 9, 2004. The claimant's appeal was postmarked on July 12, 2004. The appeal is, therefore, untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Edward Vilano
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge